



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO. 22-122222	FILING DATE 04/15/97	FIRST NAMED INVENTOR TORNHOLM, W	ATTORNEY DOCKET NO. DT-1216
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1812/0115

EXAMINER GUPTA, A

ART UNIT 1811	PAPER NUMBER 10
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DATE MAILED: 04/15/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

See the attached.



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EXAMINER

ART UNIT	PAPER NUMBER
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10

Below is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

DATE MAILED:

ADVISORY ACTION

■ THE PERIOD FOR RESPONSE

- a) ☒ is extended to run ____ or continues to run 3 Months from the date of the final rejection.
b) ☐ expires three months from the date of the final rejection or as to the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response as set forth in b) above.

- Appellant's Brief is due in accordance with 37 CFR 1.192(a).
■ Applicant's response to the final rejection, filed 3/10/97, has been considered with the following effect, but is not deemed to place the case in condition for allowance.
1. ☒ The proposed amendments to the claim/and or specification will not be entered and the final rejection stands because:
- a. ☒ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - b. ☒ They raise new issues that would require further consideration and/or search. (See note).
 - c. ☐ They raise the issue of new matter (See note).
 - d. ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: ____

2. ☐ Newly proposed or amended claims ____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☒ Upon the filing of an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: NONE

Claims objected to: NONE

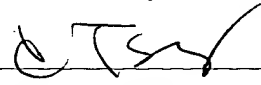
Claims rejected: 6-10

However;

- ☐ Applicant's response has overcome the following rejection(s): Rejection Under 35 U.S.C. 112 Second Paragraph for claims 1 and 5.

4. ☒ The affidavit, exhibit or request for reconsideration has been considered, but does not overcome the rejection because ____
The newly amended claim 6 would raise new 112 First and Second Paragraph issues with respect to the definition of hyperpolymeric hemoglobin molecules with a size and a weight which are several hundred times of a size and weigh of quaternary hyperpolymeric hemoglobin molecules. Applicants have also stated that neither of the references of Ptozchke et al or Bonhard et al. "make any reference to crosslinked hypermpolymeric hemoglobin molecules". However, the reference of Potzschke et al. clearly makes reference to crosslinked hyperpolymers in Materials and Methods (page 289).
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.
- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other


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SUPERVISORY PATENT EXAMINER
GROUP 1800